

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Jennifer A. Maguire  
Budget Director

**SUBJECT: 2008-2009 ADOPTED FEES AND  
CHARGES REPORT**

**DATE:** September 12, 2008

APPROVED: 

DATE: 9/12/08

The 2008-2009 Adopted Fees and Charges Report documents the majority of the fees and charges accruing to the City's General Fund. This report does not, however, include a number of fees assessed by the City's enterprise operations (e.g., Airport, Downtown Parking, and Convention Center Facilities), as they are brought to the City Council for consideration in a different form.

The fees approved in this document are assumed in the revenue estimates contained in the 2008-2009 Adopted Budget. Cumulative departmental fees and charges for 2008-2009 are projected to generate revenue of approximately \$102.8 million, of which \$70.3 million would accrue to the General Fund. This overall collection level is approximately \$1.6 million above the 2007-2008 adopted estimate of \$101.2 million. The General Fund revenue estimate for 2008-2009, however, is \$558,000 below the 2007-2008 adopted level due to revised estimates for the development fee programs. The 2007-2008 adopted estimates for the Building and Public Works development fee programs proved to be well above actual performance.

The 2008-2009 revenue projections reflect lower revised activity estimates in these areas.

For all Council-directed cost recovery fee programs (excluding penalties, fines, and non-cost recovery activities), 2008-2009 approved fees and charges are projected to recover 96.2% of fee program costs. This is up from a cost recovery level of 93.5% budgeted in 2007-2008. The increase from the 2007-2008 cost recovery level is due primarily to higher cost recovery rates for the development-related fees in the Planning, Building and Code Enforcement and Public Works Departments. These programs used a higher level of ongoing revenue and expenditure solutions and less fee program reserves to balance the fee programs in 2008-2009, which resulted in higher cost recovery percentages. In both years, however, the combined development fee program packages reach the 100% cost recovery level.

The body of this report contains details, by responsible department, of adopted fees and estimated costs for the

HONORABLE MAYOR AND CITY COUNCIL  
SUBJECT: **2008-2009 ADOPTED FEES & CHARGES REPORT**

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services for which the fees are assessed. In developing the 2008-2009 fee structure, staff was guided primarily by the City Council's policy direction to strive for 100% cost recovery for most fee-related programs. During the budget development process, all fee programs were reviewed to ensure that the amounts being assessed would remain competitive in the market, would not be too prohibitive, and would remain as close as possible to current levels of cost recovery.

Additional Council direction was also followed, so that where appropriate, fees take into consideration approved exceptions to the City Council's full cost recovery policy, as well as applicable State laws. The departments with an overall cost recovery level below 100% administer fee programs that the City Council has previously directed remain at less than cost recovery, generally in order to assure public access to services. Examples include fees for public records and youth recreation programs. In view of this direction, the cost recovery levels for these programs are fairly consistent with the 2007-2008 adopted levels.

Highlights of the 2008-2009 Adopted Fees and Charges Report include the following:

***DEVELOPMENT FEE PROGRAMS***

Development activity, including planning permit applications, building permits, plan reviews, and inspection activity, has remained relatively constant since the development boom ended in 2000-2001. For the four Fee

Program partners, Building, Planning, Fire, and Public Works, there had been a shift away from commercial and industrial construction activity toward residential construction activity that resulted in declining construction valuations, while service demand continued to gradually grow. In addition, the type of residential development over time shifted from tract homes to mostly in-fill development. This change brought with it increased costs due to increased complexity and reduced revenues.

In order to start providing stability to the development fee programs, the Building Fee Program implemented a new fee structure in July 2003 for residential projects with a time-based methodology and an initial fee assessment based on the average service time invested in the particular product type. Previously, a valuation-based methodology was used for calculating permit and plan check fees. The long standing valuation-based methodology was determined to be less precise in matching fees with service than a time-based cost-of-providing-service methodology. In 2005, the Fire Department implemented this new methodology in its fee structure. In 2006-2007, the Building Fee Program expanded the time-based fee structure to commercial and industrial projects, bringing a consistent time-based methodology for all Building and Fire fees. In 2008-2009, portions of the Public Works and Planning Fee Programs (Environmental Review and Site Development categories specifically) will be implementing this time-based fee methodology as well.

HONORABLE MAYOR AND CITY COUNCIL  
SUBJECT: **2008-2009 ADOPTED FEES & CHARGES REPORT**

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***DEVELOPMENT FEE PROGRAMS (CONT'D.)***

For the 2008-2009 Building and Public Works Fee Programs, a series of balancing actions were approved in the Adopted Budget to address a continued imbalance in program revenues and costs. For the Planning and Fire Fee Programs, balancing actions were approved to ensure cost recovery and service levels are maintained.

In developing the 2008-2009 budget, staff met with the San José Silicon Valley Chamber of Commerce's Development Committee, which has served as an advisory panel to the City's Development Services partners. Staff also sought feedback from a number of other industry groups representing home builders, office park developers, architects, and the remodel industry. Development Services also received feedback from individual customers and through the first annual scientific Customer Satisfaction Survey.

**Planning, Building and Code Enforcement Department (Development Fees)** – The Planning, Building and Code Enforcement Department administers a variety of fees and charges related to processing development permit applications and ensuring that construction in San José is safe and conforms to applicable building codes and regulations.

It is estimated that the 2008-2009 adopted Planning, Building and Code Enforcement Department development-related fees and charges program, excluding use of fee reserves, penalties, and interest, will raise revenues of \$30.8

million, reflecting a cost recovery rate of approximately 95%. This adopted cost recovery level represents an increase from the 2007-2008 adopted level of 91%. Including the use of reserves, these programs were approved at the 100% cost recovery level for 2008-2009.

The individual adopted Planning and Building Fee Program actions are described in the following sections of this document and summarized below:

**Building Fee Program** – The 2008-2009 adopted Building Fee Program budget package closed the revenue-to-cost gap with a 10% fee increase that will generate \$2.1 million in additional revenue. The approved reinstatement of the Temporary Certificate of Occupancy and Time Extension permit fees and adjustments to commercial/industrial fees will generate an additional \$750,000 in revenues. The program also used \$1.6 million from the Building Fee Reserve, eliminated 14 positions and reduced the non-personal/equipment budget by \$200,000 to bring this program to 100% cost recovery.

**Planning Fee Program** – In 2008-2009, the Planning Fee Program will implement a 7% fee increase along with funding shifts to provide a 100% cost recovery program. Additions in this program include a Green Building Planner, one-time funding for a process improvement Planner, and the upgrade of the document management system.

HONORABLE MAYOR AND CITY COUNCIL  
SUBJECT: **2008-2009 ADOPTED FEES & CHARGES REPORT**

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***DEVELOPMENT FEE PROGRAMS (CONT'D.)***

**Planning Fee Program** (Cont'd.)

Beginning in 2008-2009, the Planning Fee Program will be moving to the same time-based fee methodology used by the Building Fee Program. This approach will better align revenues with associated expenditures and will ensure that customers are more accurately charged. In 2008-2009, the Planning Environmental Review and Site Development Programs will pilot this methodology; it will be rolled out to the rest of the programs beginning in 2009-2010.

*General Plan Update* – State legislation authorizes cities to place a surcharge on development permits to fund updates of their General Plan. Accordingly, a 1.25% surcharge to be applied to all entitlement and building permit fees was approved by Council in 2004-2005. No change to that surcharge was included in this report. Formal initiation of the General Plan Update process was approved by City Council in June 2007 and will take two to three years to complete. The fee is anticipated to raise \$200,000 per year to fund the non-personal/equipment and consultant costs for the General Plan Update.

**Fire Department (Development Fees)** – The Fire Department administers fees for the following: fire safety permits and inspections; fire safety plan reviews, and inspections for construction projects submitted to the Building Division; fire system permits (sprinklers, fixed extinguishing systems, and fire alarm systems); hazardous

materials permits; and charges for fire reports, documents, and photographs.

For 2008-2009, to bring Fire's Development Fee Program to cost recovery at \$6.1 million, a combination of actions was adopted in the Fire Development fee category. These actions included a 4% fee increase (\$220,000) to support increased resources to align with anticipated activity levels. The resources included a limit-dated Associate Engineer position to improve plan check and inspection performance and shifts in positions from the non-development program to the development program. The one-time use of reserves (\$368,000) was approved to support one-time funding needs such as 0.25 of a limit-dated Senior Analyst, overtime to staff up during peak periods, funding for Fire's portion of a database upgrade, and various funding shifts for positions from Building to Fire.

**Public Works Department** – The Public Works Department's Fee Program, which combines the Development Services Fee Program and the Utility Fee Program, is responsible for the collection of various fees for private development activities, such as plan review and inspection of public improvements constructed by private developers, review of subdivision maps, grading permits, geologic hazard clearances, and sewer/revocable permits. In addition, staff reviews plans, issues permits, and collects fees for work performed by utility and telecommunication companies and locates City-owned underground facilities.

HONORABLE MAYOR AND CITY COUNCIL  
SUBJECT: **2008-2009 ADOPTED FEES & CHARGES REPORT**

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***DEVELOPMENT FEE PROGRAMS (CONT'D.)***

**Public Works Department** (Cont'd.)

The Public Works Development Fee Program was faced with a base shortfall of \$2.2 million for 2008-2009. In response, approved fee adjustments will generate a 10% increase in revenue, bringing estimated collections to \$5.7 million. In addition, the deletion or redeployment of 12.2 positions was approved to bring the program to a cost recovery level. As a result of staffing reductions necessary to balance this fee program, cycle time performance is projected to deteriorate. Staff will meet with development customers to review process steps and time allocations to see if the process can be streamlined and costs reduced.

For the Public Works Utility Fee Program, increased funding for inspection services required as a result of new trench restoration standards, as well as additional billing support resources were approved for this program in 2008-2009. The addition of these resources can be accomplished without any fee increase as base revenues are sufficient to cover these additional costs.

**Transportation Department** – The Transportation Department is responsible for the collection of fees for some development-related activities, such as: General Plan Amendment Model Analysis; Sale of Street Name Signs; Signal Design/Review; and New Subdivision Traffic Control Signs. Fee adjustments in General Plan Amendment Model Analysis and Sale of Street Name Signs

were approved in 2008-2009 to maintain full cost recovery. One new development-related fee was added in 2008-2009. A new Traffic Controller Fee, a subcategory fee under the Signal Design/Review Fee, was added to include the fee for the installation of a signal controller.

***OTHER FEE PROGRAMS***

**City Clerk** – One of the City Clerk's responsibilities is to make all official City Council records and documents accessible to the public. The Office of the City Clerk also performs special research and notary services, and provides duplications of taped materials on a fee basis.

For 2008-2009, the Office of the City Clerk was approved to increase one of its fees and add a new fee titled Candidate Ballot Statement that would allow the City to be reimbursed for the cost of candidate ballot statements assessed by the Santa Clara County Registrar of Voters. An increase to the Special Research/Services Fee from \$30 per hour plus the cost of materials to \$47 per hour plus the cost of materials was also approved to bring this fee to 100% cost recovery.

**Office of Economic Development** – The Office of Economic Development (OED) is responsible for administering the City's Foreign Trade Zone and Subzones which includes processing applications, boundary modifications, and contract negotiations and extensions. OED is also responsible for the collection of fees related to Office of Cultural Affairs (OCA) activities, including

HONORABLE MAYOR AND CITY COUNCIL  
SUBJECT: **2008-2009 ADOPTED FEES & CHARGES REPORT**

---

***OTHER FEE PROGRAMS (CONT'D.)***

**Office of Economic Development** (Cont'd.)

various event and use permit fees. There are a few approved fee changes in the Office of Economic Development and include adjustments to the following: Foreign Trade Subzone application fee and the Paseo/Plaza Use Permit Amendment, Series Permit, and Permit Fee. The fee adjustments are a result of a reevaluation of costs to administer these fees.

**Environmental Services Department** – The Environmental Services Department administers two fee programs as part of the Integrated Waste Management Program: Source Reduction and Recycling Fees (AB939); and Franchise Application Fees. One fee change was approved to decrease the County AB939 Fee charged at landfills from \$3.72 per ton of disposed waste to \$3.55. This \$0.17 per ton change reflects the County portion of the fee as the San José portion of this fee of \$1.50 remains the same. There were no fee changes for the Commercial Solid Waste AB939 Fee or the Commercial Solid Waste Franchise Fees.

**Finance Department** – The Finance Department is currently responsible for collecting, accounting, and monitoring the license and permit fees for Christmas tree and pumpkin patch lots, circuses, carnivals, and parades. The Department is also responsible for a number of miscellaneous fees along with Integrated Waste Management-related late charges.

One fee, the Solid Waste Delinquency Late Payment fee, was increased as encouragement to customers to submit payments by the due date. There are also three new fees included for 2008-2009: the Business Tax Administration Fee (\$22), Sidewalk Lien Fee (\$45), and an Administrative Remedies Lien Fee (\$38). These new fees were approved to recover the costs to administer these services supported by the General Fund. The new fees will relieve the General Fund of this cost obligation.

**Fire Department (Non-Development Fees)** – The Fire Department Development fees were included in the Development Fee Programs section as noted above. The Fire Department Non-Development fee category consists of annual fees such as Annual Renewable Permits and Hazardous Materials Installation, Removal, or Alteration Permits. A fee increase of approximately 10% (\$322,000) was approved to be spread evenly across most of the fee categories. This fee increase balances expenditures with anticipated revenues of \$3.5 million, maintaining the full cost recovery level required by Council policy.

**General Services Department** – The General Services Department is responsible for the collection of various fees for events at City Hall. In addition, beginning in 2008-2009, the Department assumed all responsibility related to Animal Care and Services. Event spaces rented for which a fee is charged include the Rotunda, the Plaza, the Council Chambers, and the Committee Meeting Rooms. Several fee adjustments were approved and are included in this report. Adopted revisions include: charging events at an

***OTHER FEE PROGRAMS (CONT'D.)***

**General Services Department** (Cont'd.)

hourly rate instead of daily rates; establishing a weekend hourly rate for use of the Rotunda Mezzanine; and increasing the weekday hourly rate for the Rotunda Mezzanine. Portions of City Hall event space, however, remain free of charge for internal City usage, which resulted in over 100 free use events during the 2007 calendar year. Additionally, in the area of Animal Care and Services, increases to adoption fees for cats, dogs, kittens, puppies, senior cats, and senior dogs were approved.

**Housing Department** – The Housing Department administers the Rental Rights and Referrals Program. Inclusionary Fees are also included in this Department and support the production of affordable housing units. These in-lieu fees are paid by developers if they decide to not build inclusionary (affordable) units.

In June 2007, the City Council and the San Jose Redevelopment Agency Board approved amendments to the Inclusionary Housing Policy which included a revised inclusionary in-lieu fee structure. For most units, the revised fee is \$17.00 per total square feet of living space in the entire development and for units in the Downtown High-Rise Incentive Areas, the fee is \$8.50 per square foot. Revenue from the Inclusionary Housing Program is not displayed in this document as revenue generated from this program is used to build affordable housing in San José.

There are several fee categories that make up the Rental Rights and Referral Program, and include rent-controlled apartments, mobile homes, and non-rent-controlled apartments. In 2007-2008, the rent-controlled apartments fee was suspended since that program developed a substantial reserve. A comprehensive analysis was completed on the Rental Rights and Referral Program and it was discovered that a decrease in costs for rent-controlled apartments and an increase in costs for non-rent-controlled apartments and mobile homes was required to bring each of these three areas into cost recovery. As a result, the fee for rent-controlled apartments was reinstated and the fees were adjusted for non-rent-controlled apartments and mobile homes.

**Library Department** – The Library Department levies fines for overdue, lost, and damaged materials, and collects fees for various services such as community room rentals and providing materials through other library systems. There is one fee revision and one new fee approved for 2008-2009. The Community Room Rental Fee was adjusted from \$35 per hour to \$35 per use to better align this fee with other per use fees. Also, a new cancellation fee was approved that will charge patrons who fail to cancel their reservations for the community room within 72 hours of the event.

HONORABLE MAYOR AND CITY COUNCIL  
SUBJECT: **2008-2009 ADOPTED FEES & CHARGES REPORT**

---

***OTHER FEE PROGRAMS (CONT'D.)***

**Parks, Recreation and Neighborhood Services Department** – The Parks, Recreation and Neighborhood Services Department (PRNS) assesses and collects a variety of fees and charges related to sports, sports fields and facilities, recreational lessons and facilities, and admission charges for Happy Hollow Park and Zoo.

In the 2008-2009 PRNS Fees and Charges Program, total fee revenue is estimated at \$6.8 million, of which \$6.5 million is in General Fund. For all funds (General Fund plus Lake Cunningham Fund), the cost recovery rate is decreasing from 88.1% in 2007-2008 to 77.9% for 2008-2009. This decrease in the Department's cost recovery rate is mainly due to the impact of the Happy Hollow Park and Zoo closure in July 2008 (the park is anticipated to reopen in the fall of 2009). Revenues at Happy Hollow Park and Zoo are decreasing significantly in 2008-2009 yet a portion of the staff must remain to care for the zoo animals.

Generally, the overall cost recovery rate in this Department continues to be less than 100% for a number of reasons. First, it is not possible to recover total program costs while also maintaining fees comparable to prevailing rates for similar services in adjacent jurisdictions. In addition, a number of the fees that PRNS collects are set by City Council policy at well below full cost recovery levels in order to encourage community participation (e.g., the Summer Swim Program, and the field and sports facilities use).

The PRNS 2008-2009 Adopted Fees and Charges Program contains fee increases to cover cost increases while maintaining cost recovery levels. Increased costs for labor and non-personal/equipment costs necessitate corresponding programmatic fee increases as appropriate.

Also noteworthy for this fee program are several new changes for 2008-2009. The Animal Care and Services Program was moved from PRNS to the General Services Department, which means that all related fees have also been transferred. Also, with the anticipated opening of the Roosevelt and Mayfair Community Centers in 2008-2009, revenue projections in several categories are expected to go up. In addition, there has been a reduction in the number of anticipated soccer leagues from five leagues in 2007-2008 to two leagues planned in 2008-2009. This reduced activity level contributes to the overall revenue reduction in the City Adult Sports Leagues fee category.

**Planning, Building and Code Enforcement Department (Non-Development Fees)** – The Code Enforcement Division of the Planning, Building and Code Enforcement Department collects fees for multiple housing permits, solid waste enforcement, neglected/vacant building registration, landfill closure and post closures, auto body repair shop permits, auto dismantler permits, and the abandoned shopping cart program. For 2008-2009, a 12.6% increase for the Solid Waste Enforcement Fee and a 2% fee increase for the Multiple Housing Occupancy fee were approved along with several other small fee decreases. These adjustments will bring the program to cost recovery.



HONORABLE MAYOR AND CITY COUNCIL  
SUBJECT: **2008-2009 ADOPTED FEES & CHARGES REPORT**

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***OTHER FEE PROGRAMS (CONT'D.)***

**Police Department** – In this Department's Fee Program, fees are collected from the public and from other police agencies for services such as fingerprinting, search and copying of public records, and vehicle impound release. Certain businesses and activities are subject to regulation, and fees are charged to offset the costs for processing permits and licenses that accompany the regulatory process and to partially offset costs for related investigative work.

Police Department fees are in the 100% cost recovery category except for five areas: the Taxicab Driver Permit Fee, the Concealable Firearms-Dealer permit fee, the Flower Vendor Permit fee, the fee for Duplicating Public Records, and the Emergency Communication System Support (ECSS) Fee. The Police Department reevaluated the amount of time spent on three of these categories, and upon realizing that fees charged are significantly below costs, increased their estimates for the costs of administering these fee programs. As a result, the Department is phasing in the fee increases over several years, in an effort to mitigate the impacts. For the Concealable Firearms-Dealers, Flower Vendor, and Taxicab Driver permit fees, 10% fee increases were approved in 2008-2009.

The ECSS Fee will recover 89.7% of the total costs of the City's emergency dispatch services in 2008-2009. This reflects the annual recalculation of costs and revenues associated with this fee. No increase to the base ECSS fees

was approved for 2008-2009; however, the trunk line cap of \$20,000 per account was approved to increase to \$22,131 to reflect CPI adjustments from the inception of this fee in 2004-2005 in accordance with the City's Municipal Code. The 2007-2008 Fees and Charges Report erroneously listed the base trunk line cap at \$35,000; the error has been corrected in this document.

Several other fees in the Department's fee program were adjusted in 2008-2009. Cardroom table fees were increased to cover the increased costs associated with the team that regulates cardroom activities. The fee to publish the Annual Demographics Data Book fee was eliminated this year since the book is considered outdated and is no longer published. Also, the Driving Under the Influence (DUI) restitution fee was deleted as litigation challenging the legality of charging a fee for DUI arrests was upheld in court. Finally, three new fees were approved. A new Non-Profit Organization Fundraiser Registration fee, which will collect \$497 for each "casino night" type fundraising event, was included to conform with State law. In addition, a new fee for the distribution of photographs on CD was approved. Lastly, a new Event Promoter Fee will be charged for individuals to obtain a two-year permit to promote events at San José establishments.

**Transportation Department (Non-Development Fees)** – Fee adjustments were included in this Report for several of the Transportation Department non-development-related fees to keep pace with cost increases and/or maintain full cost recovery. Revisions were approved to the Residential

HONORABLE MAYOR AND CITY COUNCIL  
SUBJECT: **2008-2009 ADOPTED FEES & CHARGES REPORT**

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***OTHER FEE PROGRAMS (CONT'D.)***

**Transportation Department (Non-Development Fees)**  
***(Cont'd.)***

Permit Parking, Meter Hood Rental, Side Sewer Installation, Sidewalk Repair-Inspection and Contract Administration, and Taxi Stand Rental. Three new fees were added in 2008-2009. The first fee is a Clean Air Vehicle Permit Fee which had been previously adopted by Council but was not reflected in this document. The second fee is a Tree Service Administrative Fee which allows the City to recover the administrative costs associated with performing emergency tree work on behalf of the property owners. The third fee is an addition of a subcategory under the Signal Design/Review fee, which will add a fee for the installation of a signal controller, if necessary.

***OTHER FEE REVISIONS***

As mentioned earlier, a number of revisions to fees in various City programs were included as part of the 2008-2009 budget, but are not included in this document. Those fees were brought forward to Council in a separate form or in a parallel process. Included in this category, for example, are changes to Airport fees, fees for activity at the Convention Center, changes to charges in City Parking Lots, and revisions to City utility fees (Recycle Plus, Sewer Service and Use Charge, Storm Sewer Use Charge, Recycled Water charges, and Municipal Water System charges). As described in the Adopted Operating Budget, increases were approved for these major City utility

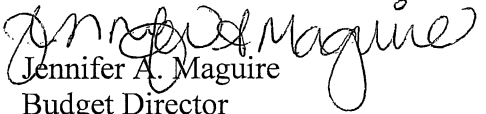
categories. Included were increases for the Recycle Plus Program (4.5% for single family, 8% for multi-family), Sewer Service and Use Charge (15%), the Storm Sewer Use Charge (30%), and basic water usage rate for Municipal Water Program users (8.8%).

***SUMMARY***

Approved fees and fee structure revisions are presented in the following summaries and detailed in the departmental sections that form the body of this report. The revenues that will result from the approved fee adjustments are reflected in the 2008-2009 Adopted Operating Budget.

Notification to the public and interested parties of the proposed fee program changes was provided through various means, including meetings with interested stakeholders, and through distribution of this document to the City Clerk's Office and to Library branches. Specific notification efforts are described in each of the Departmental Impact Analysis Reports contained in this document.

The Proposed Fees and Charges Report was released on May 2, 2008 allowing for a minimum of ten days for public review. Public input on fee proposals was heard by the City Council during public hearings held on Tuesday, May 13, 2008 and Monday, June 16, 2008 at 7:00 p.m. in the City Council Chambers.

  
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